

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|--|-------------------------------------|--|---|------------------------------------|---------------------------------|
| Investigator: Karina Herrera | Team: Squad #7 | CCRB Case #: 201808850 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Friday, 10/19/2018 7:00 AM | Location of Incident: § 87(2)(b) | Precinct: 44 | 18 Mo. SOL 4/19/2020 | EO SOL 12/4/2020 | |
| Date/Time CV Reported Tue, 10/23/2018 7:46 PM | CV Reported At: CCRB | How CV Reported: Call Processing System | Date/Time Received at CCRB Tue, 10/23/2018 7:46 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. DT3 Michael Fahy | 2697 | 941727 | WARRSEC |
| 2. DT3 Pedro Gomez | 1207 | 936676 | WARRSEC |
| 3. DT3 Jason Wolfenhaut | 03363 | 937749 | WARRSEC |
| 4. DT3 Lahmar Sanders | 2884 | 933270 | WARRSEC |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|--|-----------------------------|
| A.DT3 Pedro Gomez | Abuse: Detective Pedro Gomez entered § 87(2)(b) in the Bronx. | |
| B.DT3 Lahmar Sanders | Abuse: Detective Lahmar Sanders searched § 87(2)(b) in the Bronx. | |
| C.DT3 Pedro Gomez | Abuse: Detective Pedro Gomez searched § 87(2)(b) in the Bronx. | |
| D.DT3 Michael Fahy | Abuse: Detective Michael Fahy searched § 87(2)(b) in the Bronx. | |
| E.DT3 Jason Wolfenhaut | Abuse: Detective Jason Wolfenhaut searched § 87(2)(b) in the Bronx. | |
| F.DT3 Michael Fahy | Abuse: Detective Michael Fahy refused to show the arrest warrant to § 87(2)(b) | |
| G.DT3 Pedro Gomez | Abuse: Detective Pedro Gomez threatened to arrest § 87(2)(b) | |
| H.DT3 Lahmar Sanders | Force: Detective Lahmar Sanders used physical force against § 87(2)(b) | |
| I.DT3 Lahmar Sanders | Force: Detective Lahmar Sanders pointed his gun at § 87(2)(b) | |
| J.DT3 Pedro Gomez | Force: Detective Pedro Gomez pointed his gun at § 87(2)(b) | |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|--|-----------------------------|
| K.DT3 Michael Fahy | Force: Detective Michael Fahy pointed his gun at § 87(2)(b) [REDACTED] | [REDACTED] |
| L.DT3 Jason Wolfenhaut | Force: Detective Jason Wolfenhaut pointed his gun at § 87(2)(b) [REDACTED] | [REDACTED] |
| M.DT3 Michael Fahy | Abuse: Detective Michael Fahy threatened § 87(2)(b) [REDACTED] with the use of force. | [REDACTED] |
| N.DT3 Michael Fahy | Force: Detective Michael Fahy used physical force against § 87(2)(b) [REDACTED] | [REDACTED] |
| O.DT3 Michael Fahy | Force: Detective Michael Fahy used physical force against § 87(2)(b) [REDACTED] | [REDACTED] |
| P.DT3 Michael Fahy | Force: Detective Michael Fahy used physical force against § 87(2)(b) [REDACTED] | [REDACTED] |

Case Summary

On October 23, 2018, § 87(2)(b) filed the following complaint with the CCRB via the Call Processing System.

At approximately 7:00 a.m. on October 19, 2018, four officers, Detective Lahmar Sanders, Detective Pedro Gomez, Detective Michael Fahy, and Detective Jason Wolfenhaut from the Warrant Squad, entered § 87(2)(b)'s apartment, which was located at § 87(2)(b) in the Bronx, and they allegedly searched the apartment (**Allegation A: Abuse of Authority - Entry, § 87(2)(g)** (**Allegation B: Abuse of Authority - Search of Premises, § 87(2)(g)** (**Allegation C: Abuse of Authority - Search of Premises, § 87(2)(g)** (**Allegation D: Abuse of Authority - Search of Premises, § 87(2)(g)** (**Allegation E: Abuse of Authority - Search of Premises, § 87(2)(g)** At some point while the officers were inside of the apartment, § 87(2)(b)'s daughter, § 87(2)(b) asked to see a warrant, and Detective Fahy told her that she did not need to see it because it was already shown to § 87(2)(b) (**Allegation F: Abuse of Authority - Refused to Show Arrest Warrant, § 87(2)(g)** At some point inside of the apartment, Detective Gomez handed the warrant to § 87(2)(b) and he allegedly told her that if she ripped the paper everyone was going to be arrested (**Allegation G: Abuse of Authority - Threat of Arrest, § 87(2)(g)**

The officers eventually noticed § 87(2)(b)'s son, § 87(2)(b) inside of the apartment. Detective Sanders instructed § 87(2)(b) to go to the hallway of the apartment building in order to speak with the officers, and § 87(2)(b) refused to do so. Detective Sanders allegedly forced § 87(2)(b) onto the floor (**Allegation H: Force - Physical Force, § 87(2)(g)** While he was on the floor, all of the officers allegedly drew their firearms and pointed them at § 87(2)(b) (**Allegation I: Force - Gun Pointed, § 87(2)(g)** (**Allegation J: Force - Gun Pointed, § 87(2)(g)** (**Allegation K: Force - Gun Pointed, § 87(2)(g)** (**Allegation L: Force - Gun Pointed, § 87(2)(g)** Detective Fahy also drew a taser and allegedly pointed it at § 87(2)(b) (**Allegation M: Abuse of Authority – Threat of Force, § 87(2)(g)** . § 87(2)(b)'s mother, § 87(2)(b) and § 87(2)(b)'s grandfather, § 87(2)(b) told the officers to stop pointing their firearms at § 87(2)(b) and in response, Detective Fahy allegedly pushed § 87(2)(b) and § 87(2)(b) (**Allegation N: Force – Physical Force, § 87(2)(g)** (**Allegation O: Force – Physical Force, § 87(2)(g)** (**Allegation P: Force – Physical Force, § 87(2)(g)** The officers eventually handcuffed § 87(2)(b) and they escorted him to the 44th Precinct Detective Squad in the Bronx, where he was arrested and charged with § 87(2)(b)

No one received any summonses during the incident, and § 87(2)(b) was the only individual arrested (Board Review 01). No video footage was found in regards to this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Pedro Gomez entered § 87(2)(b) in the Bronx.

Allegation (B) Abuse of Authority: Detective Lahmar Sanders searched § 87(2)(b) in the Bronx.

Allegation (C) Abuse of Authority: Detective Pedro Gomez searched § 87(2)(b) in the Bronx.

Allegation (D) Abuse of Authority: Detective Michael Fahy searched § 87(2)(b) in the Bronx.

Allegation (E) Abuse of Authority: Detective Jason Wolfenhaut searched § 87(2)(b) in the Bronx.

§ 87(2)(b) stated that on the incident date she heard someone knocking on the front door of her four-bedroom apartment, and when she opened the door, she saw the detectives (Board Review 02). In Spanish, Detective Gomez informed § 87(2)(b) that the officers were there in regards to a warrant for an individual. Detective Gomez showed the warrant to § 87(2)(b) which had her address on it, including her apartment number, but she did not know the individual that was listed on the warrant, and she told him that. § 87(2)(b) informed Detective Gomez that her son, § 87(2)(b) her daughter, § 87(2)(b) her mother, § 87(2)(b) her children's grandfather, § 87(2)(b) her children's father, § 87(2)(b) and her son's girlfriend, § 87(2)(b) were inside of the apartment at the time. Detective Gomez told § 87(2)(b) that the officers had to enter the apartment to see identification cards and to verify that the individual on the warrant was not present. § 87(2)(b) replied, "Okay, no problem," and she allowed the officers to enter the apartment.

After the officers entered, they searched the apartment, but § 87(2)(b) did not remember where each specific officer looked. The officers opened two closets that were next to § 87(2)(b)'s bedroom and looked inside of them. One of the officers entered § 87(2)(b)'s bedroom, and he used a flashlight to look under § 87(2)(b)'s bed and behind her bedroom door. The officers also entered § 87(2)(b)'s bedroom and they used their flashlights to look under § 87(2)(b)'s bed. The officers searched both bathrooms by moving the shower curtains, and they checked the kitchen and § 87(2)(b)'s bedroom as well.

§ 87(2)(b)'s mother, § 87(2)(b) stated that she was the one who opened the front door when the officers were knocking, and in Spanish, Detective Gomez told her that the officers were looking for a male who lived in the apartment (Board Review 03). Detective Gomez gave § 87(2)(b) a paper that had the individual's information listed, but she did not remember any of the information that was on it. § 87(2)(b) looked at the paper and she told Detective Gomez, "No one like that lives here. One moment please." While the officers waited outside of the apartment, § 87(2)(b) told § 87(2)(b) to go to the front door and she did so. Detective Gomez showed the same paper to § 87(2)(b) and he told her that the officers were looking for that individual who lived inside of the apartment. § 87(2)(b) told Detective Gomez that the individual did not reside there. Detective Gomez asked § 87(2)(b) if the officers could enter the apartment, and § 87(2)(b) told him that they could do so.

The officers entered the apartment and they went to § 87(2)(b)'s bedroom. The officers checked under § 87(2)(b)'s bed and they opened her closet in order to look inside of it. The officers also entered the other bedrooms.

§ 87(2)(b) and § 87(2)(b) did not provide any statements during the course of the investigation due to their unavailability and lack of cooperation, but § 87(2)(b)

§ 87(2)(b) was interviewed (Board Review 04). § 87(2)(b) was not awake at the time the officers arrived at the incident location, so he did not observe any interactions that took place at the front door, but he said that after the officers entered the apartment, they opened his bedroom door and they used their flashlights to look inside of it. The officers also entered the other bedrooms, and while they were there, they utilized their flashlights and opened closet doors. The officers did not show § 87(2)(b) any documentation during the incident.

Detective Gomez stated that prior to arriving to the incident location, the detectives had a meeting where Detective Sanders, who was the lead investigator of the case, informed the rest of the officers that they were going to the incident location in regards to an investigative card (I-Card) with probable cause to arrest § 87(2)(b) (Board Review 05) (Board Review 06). Detective Sanders showed the officers a photograph of § 87(2)(b) and he told them that he also found warrants associated with the incident location, but none of them were for § 87(2)(b). Detective Gomez did not know how many or what kind of warrants Detective Sanders found.

Detective Gomez said that since Detective Sanders was assigned the case, he knocked on the front door and § 87(2)(b) answered. In English, Detective Sanders identified himself to § 87(2)(b) who informed him that she did not know any English. Detective Sanders gave Detective Gomez all of the paperwork he had in regards to the incident, including the I-Card and the warrants, and Detective Gomez proceeded to speak with § 87(2)(b) in Spanish. Detective Gomez described his proficiency in Spanish as “okay,” and he mentioned that he preferred to converse in English, but amongst the officers that were present at the time, he was the only one who knew Spanish to some capacity. In Spanish, Detective Gomez identified himself to § 87(2)(b) and he told her that the officers were there to conduct a warrant investigation. Detective Gomez verbally provided to § 87(2)(b) the name that was on one of the warrants, and he showed it to her. § 87(2)(b) appeared to be confused, and in that moment, § 87(2)(b) approached the front door.

Detective Gomez provided § 87(2)(b) the same explanation he gave to § 87(2)(b) and he showed her the same warrant. § 87(2)(b) told Detective Gomez that she did not recognize the name of the individual on the warrant. Detective Gomez asked § 87(2)(b) if the officers could come inside of the apartment to discuss the situation further. § 87(2)(b) replied, “Yes,” and she allowed the officers to enter by opening the door wider and leading them into the apartment. Prior to entering the apartment, Detective Gomez did not mention anything about searching the apartment.

Detective Gomez said the officers entered the apartment and continued speaking with § 87(2)(b) and § 87(2)(b) in the living room. From where he was positioned, Detective Gomez noticed an open bedroom door and he saw an individual laying on a bed inside of the bedroom. Detective Gomez approached the bedroom and he entered it in order to speak with the individual, who was § 87(2)(b). Detective Gomez determined that § 87(2)(b) was not any of the individuals that the officers were looking for and he left the bedroom. Detective Gomez did not enter any of the other bedrooms and he did not conduct any kind of search of the apartment during the incident. Detective Gomez did not use his flashlight inside of the apartment, he did not look under beds, and he did not open any closets; Detective Gomez was unaware of any other officers who did that. Detective Gomez did not know if the other officers went to any other areas of the apartment besides the living room.

Detective Sanders stated that at the time he went to the incident location, he had no other person of interest besides § 87(2)(b) (Board Review 07). Besides the I-Card, Det. Sanders did not

have any other documentation in regards to § 87(2)(b) or the apartment number. Along with the paperwork he had for § 87(2)(b) Det. Sanders also had arrest warrants in his possession at the time of the incident that were issued for the apartment building. At the incident location, Detective Sanders knocked on the front door and § 87(2)(b) answered. In English, Detective Sanders told § 87(2)(b) that the officers were there to speak to her son, and § 87(2)(b) told Detective Sanders that she did not speak English. In that moment, Detective Gomez began speaking to § 87(2)(b) in Spanish. Detective Sanders does not know Spanish, so he did not know the context of the conversation between Detective Gomez and § 87(2)(b). Det. Sanders believed either he or Det. Gomez showed § 87(2)(b)'s I-Card (Board Review 06).

After speaking with Detective Gomez, § 87(2)(b) allowed the officers to enter the apartment by opening the front door wider and waving her arm at the officers in the direction of her apartment. Prior to entering the apartment, Detective Gomez did not communicate to the other officers anything that was said during his conversation with § 87(2)(b). Once they were inside of the apartment, the officers went to a common area where they observed § 87(2)(b). Detective Sanders did not remember if he searched the apartment during the incident, and when asked if any of the other officers did that, he said, "It's a possibility that they could have, but I didn't."

Detective Fahy stated that the officers went to the incident location in regards to an I-Card that was assigned to Detective Sanders (Board Review 08). At the front door, Detective Gomez spoke to a female in Spanish, but Detective Fahy does not know Spanish, so he did not know what Detective Gomez and the female discussed. None of the officers showed the female any documentation. The female at the door eventually allowed the officers to enter the apartment by moving aside and walking into the apartment. The officers followed the female and they entered the apartment. Immediately after entering the apartment, the officers observed § 87(2)(b) in the dining room area. None of the officers conducted any kind of search of the apartment.

§ 87(2)(b) stated that she was shown a warrant at the door for an individual she did not recognize, but it had her address listed, including her apartment number. Detective Gomez corroborated that statement when he admitted that he showed § 87(2)(b) a warrant at the door that was not for § 87(2)(b) but it had the incident location listed on it. However, Detective Sanders, who was the lead detective on the case and conducted all of the necessary searches, stated that he did not have any warrants for § 87(2)(b)'s apartment number at the time of the incident. Detective Sanders believed the I-Card for § 87(2)(b) was shown to § 87(2)(b) at the front door and that she was informed that the officers were looking for him. Therefore, it is unclear what kind of documentation was presented to § 87(2)(b) at the front door and the investigation was unable to determine that.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Detective Michael Fahy refused to show the arrest warrant to § 87(2)(b)

Allegation (G) Abuse of Authority: Detective Pedro Gomez threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that at some point while the officers were inside of the apartment, her daughter, § 87(2)(b) wanted to see the warrant, and Detective Fahy told her that she did not need to see it because it was already shown to § 87(2)(b). § 87(2)(b) also stated that § 87(2)(b) asked to see the warrant, but she said that the officers did show it to § 87(2)(b). As previously mentioned, § 87(2)(b) did not provide a statement to the CCRB, so she did not address this allegation herself.

§ 87(2)(b) stated that at some point Detective Gomez gave the warrant to § 87(2)(b) and he told her not to rip it or everyone was going to be arrested. § 87(2)(b) did not make this allegation during her initial statement, and she was unresponsive for a follow-up statement regarding it.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) Force: Detective Lahmar Sanders used physical force against § 87(2)(b)

Allegation (I) Force: Detective Lahmar Sanders pointed his gun at § 87(2)(b)

Allegation (J) Force: Detective Pedro Gomez pointed his gun at § 87(2)(b)

Allegation (K) Force: Detective Michael Fahy pointed his gun at § 87(2)(b)

Allegation (L) Force: Detective Jason Wolfenhaut pointed his gun at § 87(2)(b)

Allegation (M) Abuse of Authority: Detective Michael Fahy threatened § 87(2)(b) with the use of force.

Allegation (N) Force: Detective Michael Fahy used physical force against § 87(2)(b)

Allegation (O) Force: Detective Michael Fahy used physical force against § 87(2)(b)

Allegation (P) Force: Detective Michael Fahy used physical force against § 87(2)(b)

§ 87(2)(b) stated that when he saw the officers, Detective Sanders instructed him to go to the hallway of the apartment building because they wanted to talk to him. § 87(2)(b) told Detective Sanders that he wanted to contact his attorney first. In response, Detective Sanders grabbed § 87(2)(b)'s arm and forced him onto the floor. While he was on the floor, all of the officers drew their firearms and they pointed them at § 87(2)(b). The officers instructed § 87(2)(b) to stop resisting. Detective Fahy also drew his taser and pointed it at § 87(2)(b). Detective Fahy instructed § 87(2)(b) to stop resisting, and in that moment, § 87(2)(b) and § 87(2)(b) told the officers to stop pointing their firearms at § 87(2)(b). In response, Detective Fahy pushed § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) stated that when the officers saw § 87(2)(b), Detective Sanders instructed him to go to the hallway and he refused to do so. Detective Sanders placed his hand on his firearm, but he did not remove it from his holster. Detective Sanders told § 87(2)(b) that if he resisted the situation would be worse. In that moment, § 87(2)(b) sat on the floor from where he was standing and § 87(2)(b) believed he did that because he did not want to be arrested. Detective Sanders handcuffed § 87(2)(b) while he was on the floor and the officers escorted him out of the apartment. § 87(2)(b) did not mention any physical force used by the officers against her or any of the other occupants of the apartment, and she did not allege that the officers pointed their tasers or firearms during the incident.

§ 87(2)(b) stated that when the officers saw § 87(2)(b), Detective Sanders took out his handcuffs and § 87(2)(b) told the officers that he did not want to leave the apartment. Detective Sanders, Detective Gomez, and Detective Fahy grabbed § 87(2)(b) and he fell on the floor. § 87(2)(b) did not know if the officers forced § 87(2)(b) onto the floor or if he fell on his own. Detective Sanders handcuffed § 87(2)(b) while he was on the floor and the officers escorted him out of the apartment. None of the officers pointed their firearms or tasers during the incident, and § 87(2)(b) did not allege any physical force used against her or any of the other occupants of the apartment.

As previously mentioned, § 87(2)(b) did not provide a statement to the investigation, so he did not address any of these allegations.

Detective Sanders, Detective Gomez, and Detective Fahy stated that when § 87(2)(b) saw the officers, he went "limp" and he fell onto the floor on his own accord, so the officers handcuffed him while he was on the floor. The officers denied pushing anyone during the incident, they denied ever pointing their firearms, and they denied ever pointing a taser.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (Board Review 09).
- Detective Gomez has been a member of service for fifteen years and has been a subject in three CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g).
- Detective Sanders has been a member of service for sixteen years and has been a subject in sixteen CCRB complaints and thirty-four allegations, of which six were substantiated:
 - Case #201017094 involved one allegation of force, one allegation of refusal to provide name/shield number, one allegation of stop of person, and one allegation of discourtesy word, all of which were substantiated. The Board recommended charges and the NYPD imposed no discipline.
 - Case #201305005 involved one allegation of premises entered and/or searched and one allegation of property damage, both of which were substantiated. The Board recommended charges and the NYPD imposed a forfeiture of five vacation days.
 - § 87(2)(g)
- Detective Fahy has been a member of service for thirteen years and has been a subject in three CCRB complaints and seven allegations, none of which have been substantiated. § 87(2)(g)
 - Case #202000615 involves one allegation of failure to provide a business card, § 87(2)(g) one allegation of stop of person, and one allegation of threat of arrest, all of which are pending investigation.
- Detective Wolfenhaut has been a member of service for fifteen years and he has been a subject in six CCRB complaints and twelve allegations, none of which were substantiated. § 87(2)(g).

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On January 28, 2020, a Notice of Claim request was sent to the New York City Office of the Comptroller and the results will be added to the case file upon receipt.

Squad No.: 7

Investigator: Inv. Karina Herrera Inv. Karina Herrera 03/30/2020
Signature Print Title & Name Date

Squad Leader: Vanessa Rosen Manager Vanessa Rosen 03/30/20
Signature Print Title & Name Date

Reviewer: Signature Print Title & Name Date